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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 DENNIS FLOKER,

10 Plaintiff,

11 v.

12 CHERYL JOHNSON-BALES, *et al.*,

13 Defendants.

No. C06-5561 RJB/KLS

ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL DISCOVERY
REQUEST NO. 17.

14 Before the court is Plaintiff's Motion to Compel Discovery Request No. 17. Dkt. No.

15 223. Defendants oppose the motion, stating that they have properly responded to this request.

16 Dkt. 237. Plaintiff has filed a reply. Dkt. 251.

17 **DISCUSSION**

18 Pursuant to Rule 26(b)(1) of the Federal Rules of Civil Procedure, parties may obtain
19 discovery of relevant information. Relevant information is defined as information that is
20 "reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1).
21 The Court may deny relevant discovery, however, if the "burden or expense of the proposed
22 discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(2)(iii). After careful review of the
23 discovery requests, the objections stated, and argument of the parties, the Court finds that the
24 motion to compel should be denied.
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ORDER - 1

1 On September 16, 2009, Defendants received from Plaintiff a discovery request entitled
2 "Discovery Request No. 17 to Def J. Jackson Request for Production." Dkt. 237, Exh. 1, ¶ 2.
3 On October 9, 2009, Defendant Jackson served Plaintiff with his responses and objections to this
4 request as well as the following responsive documents: DEFS 10944 through DEFS 11161 and
5 DEFS 11199 through DEFS 11353. *Id.*; Exh. 1, Attach. A. The documents labeled DEFS 11199
6 through DEFS 11353 were produced on disk per Plaintiff's request. *Id.* at 3.
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8 In his motion, Plaintiff states: "RFP No. 3 has been responded to on disk, however, pltf has
9 not been allowed to view the disk, yet. Once viewed pltf will resubmit this motion to compel." Dkt.
10 223, p. 3. In his reply, Plaintiff acknowledges that he has not yet reviewed the disk, but anticipates
11 that the Defendants' response is incomplete. Dkt. 251. Plaintiff makes this judgment based on the
12 size of the material he requested and the size of the material contained on the disk, Defendants could
13 not have produced all the documents he requested. Dkt. 251.

14 Defendants produced the responsive documents on disk (Dkt. 237, Exh. 1, Attach. A), and
15 Plaintiff admits that he made the request that the documents be produced on disk and that the disk
16 was provided to him by the Defendants. Dkt. 223, p. 3. Plaintiff makes no argument that Defendants
17 have not responded to his request but that he "anticipates" that once he reviews the disk, he will have
18 to resubmit his motion to compel. This motion is without merit. The court will not make a ruling
19 in anticipation of Plaintiff's review of the documents. In addition, the court has ruled that the
20 deadline for filing motions to compel in this case was December 19, 2009. Dkt. 209.
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22 Accordingly, it is **ORDERED**:

- 23 1) Plaintiff's motion to compel (Dkt. 223) is **DENIED**.
24 2) The Clerk is directed to send copies of this Order to Plaintiff and counsel for
25 Defendants.
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1 DATED this 16th day of February, 2010.
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Karen L. Strombom
United States Magistrate Judge